

# State Office of Administrative Hearings



Cathleen Parsley  
Chief Administrative Law Judge

January 7, 2011

Les Trobman, General Counsel  
Texas Commission on Environmental Quality  
PO Box 13087  
Austin Texas 78711-3087

Re: **SOAH Docket No. 582-07-2674; TCEQ Docket No. 2007-0362-IHW; In Re: Application of Texcom Gulf Disposal, L.L.C. for Texas Commission Environmental Quality Commission Industrial Solid Waste Permit No. 87758**

Dear Mr. Trobman:

This case is scheduled for consideration at the Commissioner's Open Meeting on January 26, 2011. TexCom Gulf Disposal, L.L.C. (TexCom), Lone Star Groundwater Conservation District (Lone Star), the Aligned Protestants Montgomery County and the City of Conroe, and the Executive Director filed exceptions to the Supplemental Proposal for Decision (SPFD) issued in this case.<sup>1</sup> After carefully considering these exceptions and the responses, we continue to recommend that the Commission grant TexCom's application for Solid Waste Permit No. 87758. If an exception is not specifically addressed below, the Administrative Law Judges (ALJs) did not find the exception persuasive.

The ALJs recommend that the following Findings of Fact (FF) and Conclusions of Law (CL) be modified as indicated below to correct any typographical errors or to clarify the record. The ALJs do not recommend any substantive changes to the SPFD.

## **TexCom's exception to FF No. 44**

TexCom requests that the word "Time" be replaced with the word "time." The ALJs agree that this word does not need to be capitalized. The ALJs also noted that the word "full-off" is a typographical error and should be changed to "fall-off." With these revisions, FF No. 44 will read:

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<sup>1</sup> Neither the Aligned Protestants nor the Executive Director actually raised any formal exceptions. Lone Star reurged its prior argument that that the regulations are insufficient to permit a surface facility as TexCom proposes.

At the request of TexCom, Lone Star, the Aligned Protestants, and the Individual Protestants, the hearing on the merits was cancelled on May 20, 2009, and the proceeding abated to allow TexCom time to re-perforate existing well WDW 315 and to conduct a new pressure fall-off test.

**TexCom's exception to CL No. 18**

TexCom requested that the word "the" be inserted between the words "near" and "Facility" to correct a typographical error in the last bullet point. CL No. 18 will now read:

In accordance with 30 TEX. ADMIN. CODE § 335.4(3), operation of the surface Facility in accordance with the representations in the Application and the Terms and Conditions of the Draft Permit will not result in the endangerment of the public health and welfare if the following special conditions are added to Permit No. 87758:

- Relocate the truck entrance of the Facility from Creighton Road to FM3083.
- No more than nine deliveries per hour may be made to the Facility
- Deliveries must be scheduled and delivered between \_\_\_\_ a.m. to \_\_\_\_ p.m. Monday through Friday and \_\_\_\_ a.m. to \_\_\_\_ p.m. on Saturday. No deliveries may be made on Sundays.
- Trucks will not be permitted to idle in or near the Facility for more than 30 minutes.

Sincerely,



Thomas H. Walston  
Administrative Law Judge



Catherine C. Egan  
Administrative Law Judge

/nl  
cc: Mailing List

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**STYLE/CASE:** TEXCOM GULF DISPOSAL LLC  
**SOAH DOCKET NUMBER:** 582-07-2673  
**REFERRING AGENCY CASE:** 2007-0204-WDW

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**STATE OFFICE OF ADMINISTRATIVE  
HEARINGS**

**ADMINISTRATIVE LAW JUDGE  
ALJ THOMAS H. WALSTON**

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**Note: PLEASE NOTE: THIS CASE IS CONSOLIDATED WITH 582-07-2674.**

xc: Docket Clerk, State Office of Administrative Hearings